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6 Attorneys for Defendants CLIFTON BRITT,
7 JR., MERCENARY PICTURES, INC. and
HVL CYBERWEB SOLUTIONS, INC.

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10
11 TANYA FAULKNER, an individual,
12 and VBX PRODUCTIONS, INC., a
Nevada Corporation,

13 Plaintiffs,

14 vs.

15 CLIFTON BRITT, JR., an individual,
16 MERCENARY PICTURES, INC., a
Suspended California Corporation,
17 HVL CYBERWEB SOLUTIONS,
INC., a Canadian Corporation, and
18 DOES 1 through 10, inclusive,

19 Defendants.

CASE NO. CV08-03546 JFW (FMOx)
(Assigned to JUDGE JOHN F.
WALTER)

**DEFENDANT HVL CYBERWEB
SOLUTIONS, INC.'S ANSWER TO
FIRST AMENDED COMPLAINT**

DEMAND FOR JURY TRIAL

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21
22 Defendant HVL Cyberweb Solutions, Inc. ("Defendant") by its attorneys,
23 Wasserman, Comden & Casselman, L.L.P., for their Answer to the First Amended
24 Complaint ("Complaint") of Plaintiffs Tanya Faulkner and VBX Productions, Inc.
25 ("Plaintiffs"), allege as follows:

26
27 1. Answering Paragraph 1 of the Complaint, Defendant admits that
28 Plaintiffs have asserted claims for copyright infringement and declaratory relief and

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1 that the Court has jurisdiction over Plaintiffs' federal and state claims. Except as
2 expressly admitted herein, Defendant denies that Plaintiffs' claims have merit and
3 denies any and all remaining allegations of Paragraph 1.

4 2. Answering Paragraph 2 of the Complaint, Defendant does not contest
5 personal jurisdiction and admits that it operates websites and that it entered into a
6 contract with Defendant Mercenary and Tanya Falkner to operate their web sites.
7 Except as expressly admitted herein, Defendant denies any and all remaining
8 allegations set forth in Paragraph 2.

9 3. Answering Paragraph 3 of the Complaint, Defendant neither admits nor
10 denies that venue is proper in this district, as such allegation calls for a legal
11 conclusion.

12 4. Answering Paragraph 4 of the Complaint, Defendant denies generally
13 and specifically each and every allegation in Paragraph 4, except Defendant admits
14 that Plaintiff Tanya Faulkner has been professionally known as "Domina X" and/or
15 "Vanessa Blue."

16 5. Answering Paragraph 5 of the Complaint, Defendant denies that VBX
17 was and is in the business of creating and producing adult content motion pictures as
18 all of the movies in question have been created and produced by Mercenary Pictures
19 and Britt and denies knowledge or information sufficient to form a belief as to the
20 truth of the remaining allegations set forth in Paragraph 5.

21 6. Answering Paragraph 6 of the Complaint, Defendant denies knowledge
22 or information sufficient to form a belief as to the truth of the allegations set forth in
23 Paragraph 6.

24 7. Answering Paragraph 7 of the Complaint, Defendant denies knowledge
25 or information sufficient to form a belief as to the truth of the allegations set forth in
26 Paragraph 7.

27 8. Answering Paragraph 8 of the Complaint, Defendant admits that it is a
28 Canadian Corporation and admits that its websites are available to individuals in

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1 California and admits that it has entered into a contract with Defendant Mercenary
 2 and Tanya Faulkner. Except as expressly admitted herein, Defendant denies any and
 3 all remaining allegations set forth in Paragraph 8.

4 9. Answering Paragraph 9 of the Complaint, Defendant denies knowledge
 5 or information sufficient to form a belief as to the truth of the allegations set forth in
 6 Paragraph 9.

7 10. Answering Paragraph 10 of the Complaint, Defendant denies the
 8 allegations therein.

9 11. Answering Paragraph 11 of the Complaint, Defendant denies the
 10 allegations therein.

11 12. Answering Paragraph 12 of the Complaint, Defendant denies
 12 knowledge or information sufficient to form a belief as to the truth of the allegations
 13 set forth in Paragraph 12.

14 13. Answering Paragraph 13 of the Complaint, Defendant denies
 15 knowledge or information sufficient to form a belief as to the truth of the allegations
 16 set forth in Paragraph 13.

17 14. Answering Paragraph 14 of the Complaint, Defendant denies
 18 knowledge or information sufficient to form a belief as to the truth of the allegations
 19 set forth in Paragraph 14.

20 15. Answering Paragraph 15 of the Complaint, Defendant denies the
 21 allegations therein.

22 16. Answering Paragraph 16 of the Complaint, Defendant denies the
 23 allegations therein.

24 17. Answering Paragraph 17 of the Complaint, Defendant denies the
 25 allegations therein.

26 18. Answering Paragraph 18 of the Complaint, Defendant denies the
 27 allegations therein.

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1 19. Answering Paragraph 19 of the Complaint, Defendant denies the
2 allegations therein.

3 20. Answering Paragraph 20 of the Complaint, Defendant denies the
4 allegations therein.

5 21. Answering Paragraph 21 of the Complaint, Defendant denies
6 knowledge or information sufficient to form a belief as to the truth of the allegations
7 set forth in Paragraph 21.

8 22. Answering Paragraph 22 of the Complaint, Defendant admits that
9 Defendant Mercenary and Defendant HVL entered into a Memorandum of
10 Agreement relating to the www.lexsteele.com website and admit that the website
11 is owned by Mercenary and that Mercenary and HVL share in the revenues of the
12 website. Defendants also admit that Mercenary delivered the Motion Pictures to
13 HVL, but Defendant denies any wrongdoing and denies the remaining allegations
14 therein.

15 23. Answering Paragraph 23 of the Complaint, Defendant denies the
16 allegations therein.

17 24. Answering Paragraph 24 of the Complaint, Defendant denies the
18 allegations therein.

19 25. Answering Paragraph 25 of the Complaint, Defendant denies the
20 allegations therein.

21 26. Answering Paragraph 26 of the Complaint, Defendant denies
22 knowledge or information sufficient to form a belief as to the truth of the allegations
23 set forth in Paragraph 26.

24 27. Answering Paragraph 27 of the Complaint, Defendant denies the
25 allegations therein.

26 28. Answering Paragraph 28 of the Complaint, Defendant admits that it
27 owns and operates the website www.braincash.com, but denies the remaining
28 allegations therein.

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1 29. Answering Paragraph 29 of the Complaint, Defendant denies the
2 allegations therein.

3 30. Answering Paragraph 30 of the Complaint, Defendant denies the
4 allegations therein.

5 31. Defendant incorporates by reference its responses in Paragraphs 1
6 through 30 of this Answer, inclusive, as if fully set forth herein

7 32. Answering Paragraph 32 of the Complaint, Defendant admits that the
8 Motion Pictures contain original expression and are copyrightable subject matter
9 and Defendant further alleges that such expression and copyrights are owned by
10 Defendants Mercenary and Britt and that if Plaintiff made any creative contribution
11 to the Motion Pictures said contributions were pursuant to work for hire agreements
12 with Defendants or that Plaintiffs assigned any and all copyright rights to
13 Defendants or that based on the conduct of the parties Defendant's Mercenary and
14 Britt own all of the rights to the subject movies and all scenes contained within said
15 movies. Defendant denies the remaining allegations set forth in Paragraph 32.

16 33. Answering Paragraph 33 of the Complaint, Defendant denies
17 knowledge or information sufficient to form a belief as to the truth of the allegations
18 set forth in Paragraph 33.

19 34. Answering Paragraph 34, Defendant denies knowledge or information
20 sufficient to form a belief as to the truth of the allegations set forth in Paragraph 34.

21 35. Answering Paragraph 35 of the Complaint, Defendant denies
22 knowledge or information sufficient to form a belief as to the truth of the allegations
23 set forth in Paragraph 35.

24 36. Answering Paragraph 36 of the Complaint, Defendant denies
25 knowledge or information sufficient to form a belief as to the truth of the allegations
26 set forth in Paragraph 36.

27 37. Answering Paragraph 37 of the Complaint, Defendant denies the
28 allegations therein.

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1 38. Answering Paragraph 38 of the Complaint, Defendant denies the
2 allegations therein.

3 39. Answering Paragraph 39 of the Complaint, Defendant denies the
4 allegations therein.

5 40. Answering Paragraph 40 of the Complaint, Defendant denies the
6 allegations therein.

7 41. Answering Paragraph 41 of the Complaint, Defendant denies the
8 allegations therein.

9 42. Answering Paragraph 42 of the Complaint, Defendant denies the
10 allegations therein.

11 43. Answering Paragraph 43 of the Complaint, Defendant denies the
12 allegations therein.

13 44. Answering Paragraph 44 of the Complaint, Defendant denies the
14 allegations therein.

15 45. Answering Paragraph 45 of the Complaint, Defendant denies the
16 allegations therein.

17 46. Defendant incorporates by reference its responses in Paragraphs 1
18 through 45 of this Answer, inclusive, as if fully set forth herein.

19 47. Answering Paragraph 47 of the Complaint, Defendant neither admits
20 nor denies the allegations therein which are directed only to Defendant Mercenary.

21 48. Answering Paragraph 48 of the Complaint, Defendant neither admits
22 nor denies the allegations therein which are directed only to Defendant Mercenary.

23 49. Answering Paragraph 49 of the Complaint, Defendant neither admits
24 nor denies the allegations therein which are directed only to Defendant Mercenary.

25 50. Answering Paragraph 50 of the Complaint, Defendant neither admits
26 nor denies the allegations therein which are directed only to Defendant Mercenary.

27 51. Answering Paragraph 51 of the Complaint, Defendant neither admits
28 nor denies the allegations therein which are directed only to Defendant Mercenary.

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1 52. Answering Paragraph 52 of the Complaint, Defendant neither admits
2 nor denies the allegations therein which are directed only to Defendant Mercenary.

3 53. Answering Paragraph 53 of the Complaint, Defendant neither admits
4 nor denies the allegations therein which are directed only to Defendant Mercenary.

5 54. Answering Paragraph 54 of the Complaint, Defendant neither admits
6 nor denies the allegations therein which are directed only to Defendant Mercenary.

7 55. Defendant incorporates by reference its responses in Paragraphs 1
8 through 54 of this Answer, inclusive, as if fully set forth herein.

9 56. Answering Paragraph 56 of the Complaint, Defendant neither admits
10 nor denies the allegations therein which are directed only to Defendant Mercenary.

11 57. Answering Paragraph 57 of the Complaint, Defendant neither admits
12 nor denies the allegations therein which are directed only to Defendant Mercenary.

13 58. Answering Paragraph 58 of the Complaint, Defendant neither admits
14 nor denies the allegations therein which are directed only to Defendant Mercenary.

15 59. Answering Paragraph 59 of the Complaint, Defendant neither admits
16 nor denies the allegations therein which are directed only to Defendant Mercenary.

17 60. Answering Paragraph 60 of the Complaint, Defendant neither admits
18 nor denies the allegations therein which are directed only to Defendant Mercenary.

19 61. Answering Paragraph 61 of the Complaint, Defendant neither admits
20 nor denies the allegations therein which are directed only to Defendant Mercenary.

21 62. Defendant incorporates by reference its responses in Paragraphs 1
22 through 61 of this Answer, inclusive, as if fully set forth herein.

23 63. Answering Paragraph 63 of the Complaint, Defendant neither admits
24 nor denies the allegations therein which are directed only to Defendant Mercenary.

25 64. Answering Paragraph 64 of the Complaint, Defendant neither admits
26 nor denies the allegations therein which are directed only to Defendant Mercenary.

27 65. Answering Paragraph 65 of the Complaint, Defendant neither admits
28 nor denies the allegations therein which are directed only to Defendant Mercenary.

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66. Answering Paragraph 66 of the Complaint, Defendant neither admits nor denies the allegations therein which are directed only to Defendant Mercenary.

67. Answering Paragraph 67 of the Complaint, Defendant neither admits nor denies the allegations therein which are directed only to Defendant Mercenary.

68. Answering Paragraph 68 of the Complaint, Defendant neither admits nor denies the allegations therein which are directed only to Defendant Mercenary.

69. Defendant incorporates by reference its responses in Paragraphs 1 through 68 of this Answer, inclusive, as if fully set forth herein.

70. Answering Paragraph 70 of the Complaint, Defendant neither admits nor denies the allegations therein which are directed only to Defendants Mercenary and Britt.

71. Answering Paragraph 71 of the Complaint, Defendant neither admits nor denies the allegations therein which are directed only to Defendants Mercenary and Britt.

72. Answering Paragraph 72 of the Complaint, Defendant neither admits nor denies the allegations therein which are directed only to Defendants Mercenary and Britt.

73. Answering Paragraph 73 of the Complaint, Defendant neither admits nor denies the allegations therein which are directed only to Defendants Mercenary and Britt.

FIRST AFFIRMATIVE DEFENSE

74. The Complaint, and each and every claim for relief therein, fails to allege facts sufficient to state a claim for relief against Defendants.

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SECOND AFFIRMATIVE DEFENSE

75. The Complaint, and each and every claim for relief therein, is barred by the applicable statute of limitations, including Section 507 of the Copyright Act, California Code of Civil Procedure Sections 337, 338, 339 and 343.

THIRD AFFIRMATIVE DEFENSE

76. Plaintiffs' alleged damages, if any, must be offset by amounts owed by Plaintiffs to Defendants.

FOURTH AFFIRMATIVE DEFENSE

77. Plaintiffs' claim is barred by the doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE

78. Plaintiffs' claims are barred by the doctrine of unclean hands.

SIXTH AFFIRMATIVE DEFENSE

79. Plaintiffs' claims are barred by the doctrines of release, waiver, and estoppel.

SEVENTH AFFIRMATIVE DEFENSE

80. Plaintiffs' claims are barred by the doctrine of acquiescence.

EIGHTH AFFIRMATIVE DEFENSE

81. Plaintiffs have not sustained any injury or damage as a result of any act or conduct of Defendants and Defendants have at all times acted with innocent intent.

NINTH AFFIRMATIVE DEFENSE

82. Plaintiffs' claims are barred by their failure to mitigate damages.

TENTH AFFIRMATIVE DEFENSE

83. Plaintiffs' claims are barred by Plaintiffs unlawful and fraudulent registrations of the Motion Pictures with the United States Copyright Office.

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1 WHEREFORE, Defendant pray for judgment as follows:

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3 1. That Plaintiffs take nothing by reason of their Complaint in this matter,
4 and that judgment be rendered in favor of Defendants;

5 2. That Defendants be awarded its costs of suit in this matter including
6 reasonable attorneys fees;

7
8 3. For such other and further relief as the Court deems just and proper.
9

10 DATED: November 21, 2008 **WASSERMAN, COMDEN & CASSELMAN, L.L.P.**
11 **ROBERT L. ESENSTEN**
KATHRYN S. MARSHALL

12
13 By: 

14 **ROBERT L. ESENSTEN**
15 Attorneys for Defendants CLIFTON BRITT, JR.
16 **MERCENARY PICTURES, INC., and HVL**
17 **CYBERWEB SOLUTIONS, INC.**
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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Defendant demands a jury trial of any issues in this action so triable.

DATED: November 21 2008 **WASSERMAN, COMDEN & CASSELMAN, L.L.P.**
ROBERT L. ESENSTEN
KATHRYN S. MARSHALL

By: 

ROBERT L. ESENSTEN
Attorneys for Defendants CLIFTON BRITT, JR.,
MERCENARY PICTURES, INC. and HVL
CYBERWEB SOLUTIONS, INC.

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CERTIFICATION OF SERVICE

I hereby certify that on November 21, 2008, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

Respectfully Submitted,

s/ROBERT L. ESENSTEN
ROBERT L. ESENSTEN

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